IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 209 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

---

DALSUKHBHAI PARSOTTAMBHAI PATEL

Versus

LUHAR THAKOREBHAI ALIAS BHIMBHAI PIRABHAI

---

Appearance:

MR HJ NANAVATI for Petitioner Nos. 1-3

MR MITUL K SHELAT for Respondent No. 1

RULE SERVED for Respondent No. 2

---

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 01/03/2004

ORAL JUDGEMENT

The applicants herein are the original plaintiffs of Regular Civil Suit No.62 of 1998. During the pendency of the said suit, the opponents herein, original defendants, submitted an application for amendment of the

written statement.

The learned trial Judge, by the impugned order, allowed the said application and the defendants were permitted to amend the written statement, as prayed for in the original application. It is the aforesaid order, which is impugned in this revision at the instance of the original plaintiff.

Mr.Shelat, leanred Advocate for the opponents, submitted that, in view of the amendment in Section 15 of the Code of Civil Procedure, this revision is not maintainable, as by the impugned order, the Court has permitted the defendants to amend the written statement. He submitted that this order is not revisable in view of the amendment in Section 115 of the Code of Civil Procedure. Considering the order, it is clear that it is interlocutory in nature and the whole suit is at large before the trial court. This revision cannot be entertained in view of the amendment in Section 115 of the Code of Civil Procedure. Hence, it is rejected on the ground of maintainability, as, in my view, the revision it is not maintainable in view of the amendment in the Code of Civil Procedure. Rule is discharged. No costs.

It is clarified that this Court has not expressed any opinion on merits of the impugned order and if the applicants so desire, it will open for them to challenge the impugned order by taking out appropriate proceedings in this behalf, such as, a petition under Article 227 of the Constitution of India.

Interim relief granted is ordered to be extended upto 25th March, 2004.

1st March, 2004 ( P.B. Majmudar, J. )

****

(apj)